

Message Text

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ACTION EB-07

INFO OCT-01 ARA-06 ISO-00 L-02 AID-05 CIAE-00 COME-00

FRB-03 INR-07 NSAE-00 USIA-06 TRSE-00 XMB-02 OPIC-03

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FM AMEMBASSY GUATEMALA

TO SECSTATE WASHDC 6773

C O N F I D E N T I A L GUATEMALA 2553

E.O. 11652: GDS

TAGS: BDIS, GT

SUBJECT: LOCAL SCANDAL MAY INVOLVE U.S. COMPANY

1. ON APRIL 30 MR. RONALD ROSNER OF INTER-COMMODITY EXPORT, DIVISION OF ACTI INTERNATIONAL (110 WALL STREET, NEW YORK, TEL - 212 747 1670) TELEPHONED ECON COUNSELOR TO REQUEST ASSISTANCE IN RESOLVING TRADE COMPLAINT. ROSNER, A FORMER FSO, IS ACQUAINTANCE OF ECON COUNSELOR. ACCORDING TO ROSNER, INTER-COMMODITY EXPORT WON BID TO SUPPLY MUNICIPAL GOVERNMENT OF CITY OF GUATEMALA WITH 3,000 TONS OF ALUMINUM SULFATE FOR WATER WORKS. ON BASIS OF THIS CONTRACT INTER-COMMODITY EXPORTS HAD NEGOTIATED PURCHASE CONTRACT WITH UNNAMED US SUPPLIER OF ALUMINUM SULFATE. SUBSEQUENT TO THAT AGREEMENT, GOG CONTROLLER HAS REFUSED MUNICIPALITY REQUEST TO OPEN LETTER OF CREDIT ON BEHALF OF INTER-COMMODITY EXPORT. ROSNER SAID HE FELT THERE MIGHT BE POLITICAL PROBLEMS INVOLVED THAT WERE BEING MIS-UNDERSTOOD BY HIS GUATEMALAN AGENT AND REQUESTED ECON COUNSELOR TO DISCUSS ISSUE WITH AGENT IN ORDER TO OBTAIN ALL RELEVANT FACTS. THE AGENT IS H.J. GRAF OF LA INTERCONTINENTAL CO., LTDA.

2. ECON COUNSELOR CALLED ON GRAF SAME DAY AND FOUND HIM DISCONCERTINGLY FORTHCOMING. GRAF PROVIDED FOLLOWING HISTORY OF CASE. MUNICIPALITY HAD INITIALLY CALLED FOR BIDS FOR SUPPLY OF ALUMINUM SULFATE AND HE, QUOTING FOR INTER-COMMODITY EXPORT, HAD BEEN LOW. MUNICIPAL OFFICIALS THEN SUGGESTED THAT

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THEY AGREE TO A HIGHER PRICE WITH THE DIFFERENCE GOING TO

THE OFFICIALS, INCLUDING MAYOR PONCIANO. GRAF AGREED. IN ORDER TO PROCEED ALONG THIS COURSE IT WAS NECESSARY FOR THE MUNICIPALITY TO CANCEL THE BIDDING AND DECLARE THAT THE NEED FOR ALUMINUM SULFATE CONSTITUTES AN EMERGENCY THAT REQUIRES STATUTORY BIDDING PROCEDURES BE SET ASIDE. ACCORDINGLY, A THREE-MAN EXTRAORDINARY INVESTIGATIVE BODY HEADED BY PONCIANO WAS CREATED AND IT FOUND THAT AN EMERGENCY EXISTED. WHEN BIDDING REQUIREMENTS WERE THEN SET ASIDE, GRAF NEGOTIATED WITH THE MUNICIPALITY THE INTER-COMMODITY EXPORT CONTRACT. AT THIS POINT THE MANAGER OF THE WATER WORKS SUSPECTED IRREGULAR PROCEDINGS AND REQUESTED THE MINISTERS OF PUBLIC WORKS, PUBLIC HEALTH AND GOVERNMENT INVESTIGATE MATTER. (GRAF SAID THAT THE MANAGER IS A MEMBER OF THE MLN AND IMPLIED THAT HIS MOTIVES WERE POLITICAL RATHER THAN BASED ON AN OUTRAGED SENSE OF DECENCY.) THE MINISTERS AGREED TO INVESTIGATE AND, IN THE MEANTIME, ORDERED THE GOG CONTROLLER NOT TO OPEN ANY LETTERS OF CREDIT. THE WATER WORKS MANAGER THEREUPON PUBLISHED AN ANNOUNCEMENT THAT BIDDING WAS AGAIN OPEN. PONCIANO WROTE THE MINISTERS REQUESTING A FAVORABLE DECISION ON THEIR INVESTIGATION.

3. GRAF THEN SHOWED THE ECON COUNSELOR A TELEX MESSAGE HE HAD SENT THE PREVIOUS DAY TO INTER-COMMODITY EXPORT THAT ESSENTIALLY LAID OUT THE ABOVE HISTORY. THE ECON COUNSELOR REQUESTED GRAF THAT IN HIS NEXT TELEX HE INDICATE THAT HE HAD TALKED TO HIM. BEFORE LEAVING, THE ECON COUNSELOR SAID THAT HE DOUBTED THE EMBASSY COULD BE OF ASSISTANCE.

4. ROSNER CALLED AGAIN DURING THE WEEK OF MAY 5-9. THE ECON COUNSELOR SAID THAT THE ADMITTED FACTS OF THE MATTER WERE SUCH AS TO PRECLUDE EMBASSY INVOLVEMENT. ROSNER APPEARED TO UNDERSTAND AND TERMINATED THE CONVERSATION BY REQUESTING ECON COUNSELOR INFORM HIM OF ANY FURTHER DEVELOPMENTS.

5. ON MAY 15 ROSNER AGAIN CALLED (WITH MR. GEAU REISER, VICE PRESIDENT OF INTER-COMMODITY EXPORTS ON A SECOND PHONE) TO REQUEST THAT ECON COUNSELOR RECONSIDER HIS POSITION. ROSNER DECLARED THAT HIS SUPPLIER WAS THREATENING SUIT, THAT INTER-COMMODITY EXPORT WAS "CLEAN" BECAUSE IT HAD NO RESPONSIBILITY FOR HOW ITS AGENTS USED THEIR FEES, AND THAT IT WAS THE EMBASSY'S DUTY TO PROTECT THE GOOD NAME OF AN AMERICAN FIRM AND PROMOTE CONFIDENTIAL

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US EXPORTS. FROM THE CONVERSATION IT WAS CLEAR THAT ROSNER WAS FULLY CONVERSANT WITH THE DETAILS OF THE "DEAL" BETWEEN GRAF AND THE MUNICIPALITY. ECON COUNSELOR REPEATED HIS POSITION THAT THE PECULIAR FACTS OF CASE PRECLUDED EMBASSY INVOLVEMENT. HE OBSERVED THAT THE GOG WOULD BE UNLIKELY TO MAKE A DISTINCTION BETWEEN INTER-COMMODITY AND ITS AGENT. HE ADVISED ROSNER TO OBTAIN THE SERVICES OF A REPUTABLE GUATEMALAN LAWYER AND OFFERED TO PROVIDE HIM WITH AN APPROPRIATE LIST WHEN AND IF HE CAME TO

GUATEMALA.

6. COMMENT: IT IS POSSIBLE THAT INTER-COMMODITY EXPORTS WILL NEXT SEEK USG ASSISTANCE THROUGH EITHER THE DEPARTMENT OF STATE OR THE DEPARTMENT OF COMMERCE. IN VIEW OF GRAF'S FRANK ADMISSION THAT HE HAD ENGAGED WITH MUNICIPALITY OFFICIALS IN CIRCUMVENTING LOCAL LAW AND REGULATIONS AND THAT THE OFFICIALS BENEFITTED PERSONALLY, THE EMBASSY STRONGLY RECOMMENDS, THAT IF ROSNER OR REISER DO MAKE SUCH AN APPROACH THEY BE POLITELY REBUFFED. INTER-COMMODITY EXPORTS MAY INDEED BE INNOCENT OF COMPLICITY BUT IT WILL NEVER APPEAR THAT WAY FROM THE GUATEMALAN VIEWPOINT.
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